

# **EXHIBIT 8**

# **EXHIBIT C-1, T-1**

to Duke University's Motion  
for Summary Judgment

NOT SUPERVISOR APPROVED

EXC

Duke University Police Department

OCA: 201100927

THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

Case Status: CLOSED / LEADS

Case Mng Status: EXCEPTIONALLY CLEAR -

Occured: 04/25/2011

Offense: SUSPICIOUS ACTIVITY

Investigator: STOTSENBERG, GREG A.

Date / Time: 04/25/2011 10:48:11, Monday

Supervisor: (0)

Supervisor Review Date / Time: NOT REVIEWED

Contact:

Reference: Follow Up

On 04/21/11 at 2150 hours I was called by Capt. Raines about this incident. She emailed me the attached Student Affairs report. In the report three students were listed as suspects: (Frank Jones, Colby Leachman, and Matthew Shell). It was later determined by witness interviews and research that Ms. Clark or her reporting party got Matthew/Brian Shell by mistake. The third suspect is Brian Self.

The report identifies the young men as belonging to fraternity Delta Sigma Phi at Duke. It describes two incidents. One of the three above, having sex with a very intoxicated young female not from Duke but possibly from UNC or UVA. The second involving the "rape" of a young female passed out and a video being shown at a Delta Sig event.

On 04/21/11 at 2325 hours Sgt. Smith and I met Ms. Clark at her apartment at Popular Manor. She stated that on 04/20/11 at 1130 hours she was meeting with Taylor Birk (516-680-9250) a Duke Student and member of Kappa Alpha Theta Society. And Ms. Birk told her a story she had heard from one of her younger sorority sisters. According to Ms. Clark, Ms. Birk tells her that the younger sorority sister tells Birk that the boys from Delta Sig are nuts. She then relays the story that is in the report. I asked Ms. Clark who she first told. She said she told Dean Clay Adams and then Dean Peguero then fills out the Student Affairs report.

On 04/22/11 at 0010 hours Sgt. Smith and I met with Ms. Taylor Birk on West Campus. Ms. Birk stated that on 04/18/11 she met with her "little, little" a sorority term for the trainee of her trainee, a Ms. Gabriella Ware (Southgate 313 610-717-8507). Ms. Birk got her story from Ms. Ware. The story was closely similar to above. But it involved four guys and one girl. The girl is portrayed as being highly intoxicated. At one point someone goes down the hall asking if anyone wants to take a turn. They are all in a room having sex with her. At first the location is the workshop in the back and then they move somewhere inside. When attempting to identify the date she says that she believes it was the same weekend of the Sigma Nu Seafood event.

Ms. Birk then says that Ware told her another story about (Leachman and Jones). Apparently the two of them were having sex with a unknown Duke Freshman female. The story says that they are doing an (Eiffel Tower), a slang for a sex position. The female notices one of them with their phone in their hand. She asks what he is doing, he says he is texting but the story says he films her and then show it to his frat brothers.

I asked if Ms. Birk witnessed any of these events. She says no. I ask if she knows anyone who might have. Or if she knew the victims. She said she did not know the victims. She does say that according to Ware everyone in Southgate knows about these events especially the first story of the visiting female. She adds that everyone at Southgate are tight knit. Ms. Birk gave me the name of Lynn Hakki (202-744-0049) as a possible witness. Ms. Birk also stated that she had talked to several of her sorority sisters and received a fourth hand message that the President of the Fraternity had confronted the three suspects and they had admitted to the incident and were put on social probation by the president.

**CASE SUPPLEMENTAL REPORT**  
**NOT SUPERVISOR APPROVED**

Printed: 05/02/2011 12:56

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On 04/22/11 at 0044 hours I attempted to contact Ms. Ware, no answer. Next I contacted Ms. Hakki by phone. She did not wish to meet me in person. She spoke to me briefly on the phone. She was very carefull not to tell me what she had heard about the incident. She just kept saying she did not witness anything but only heard rumors. I asked for possible witnesses to the incident. She gave me the names of (Albert, Albert's Girlfriend, and Matt).

At 04/22/11 from 0100 - 0200 Sgt. Smith and I returned to HQ and were looking up the suspects and reviewing our notes. Still no direct witnesses, no victim, and no location. We speculated that Albert might be Albert Decaprio and Matt might be Matthew Palko.

At 0200 hours Sgt. Smith and I responded to Southgate. We walked through the back lab (Wood shop) the door stated that it was used for Engineering 020 students. It had card access. We entered and found wood and project debris on the floor. There was also two students inside working on a project. There was no couch and not a lot of visible floor space. We then walked the first floor of the building and could not find anything suspicious.

At 0233 hours I sent an email updating Chief Dailey and Major Raines. (See Attached).

On 04/22/11 I reviewed the case with Investigator Dyson and asked him to do some checking. He quickly identified Brian Self instead of Brian Shell. Brian Self is a member of Delta Sig. We reviewed the conversational chains from the night before and potential witnesses to talk to today.

Investigator Dyson contacted Investigator Matt Dodson from UNC police and they had no possible victim that they knew about. Next Dyson contacted Sgt. Carter at UVA and they too had no possible victim. I contacted Ms. Broderick of the Duke Women's Center. I asked if she knew about this alleged incident. She said she had seen the student affairs report. I asked if she knew anything about the incident other than this. She said no that she had no victims with similiar stories. I asked her to reach out to the Women's center of UVA and UNC. She said she had several good contacts at both Universities. She returned my call and stated that they too had no possible victims but they would keep an ear out and let us know if one arose.

On 04/22/11 at 1250 hours Investigator Dyson and I met Ms. Gabrielle Ware at her dorm at Southgate. She said that she had not seen the event but said she had heard about it. She said that she and another student were coming back from the Marine Lab for the weekend and received a call another female (Denny?) on the floor. Denny called her and told her what happened. (Denny) said that on April 9th, 2011 Saturday some unknown drunk female (not a Duke Student) was in the back wood shop with several duke boys. She was intoxicated and asked if she was at UVA. She said a couple of people saw this including an Abby Delbinco that was in the woodshop. Then the boys and this girl went somewhere into

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Southgate dorm and that there was some kind of wild sex party where she had sex with three to four boys. She speculated that this was somewhere on the second floor because at Southgate all of the boys live on the second floor. And she had heard it was in one of the boys dorm room. Then one of the boys went downstairs and starting asking around if anyone else wanted to join in. I asked who she might know that witnessed any of the events. She said that she heard Albert Decaprio and his girlfriend Ali Vahyrin had been in the room and saw two guys playing video games while the third guy was having sex with the girl. According to Ms. Ware, Mr. Decaprio told her that the girl "didn't seem unhappy with it." Then the unknown female then went to stay the night in one of the boys room. She said she also heard that Dylan Gamret went and knocked on the door to check on the girl. We thanked her and asked her to not talk with anyone about the incident.

On 04/22/11 at 1400 hours I spoke with Dean Peguero and she confirms that the Sigma Nu Seafood event was April 9th, 2011.

On 04/22/11 at 1445 hours I met with Matt Palko. He had no knowledge about the alleged first incident. Even with some prodding he still had not heard anything about it. He did say he heard about the "Eiffel Tower" incident. But had very little details.

On 04/22/11 at 1530 hours I met with Albert Decaprio (203-988-7790) at Brodie Gym. We met in my vehicle. With very little memory prodding he began to tell me about the incident. Decaprio stated that he and Ms. Vahyrin were returning to Southgate dorm. They entered on the 2nd floor together. Decaprio first mentioned that he was met by Dylan Gamret and Timothy Weber. They had a short discussion about an intoxicated girl and sex, and at what point does the "Bystander Affect" kick in. When should someone do something if they think she is too intoxicated to consent. And how do you know if someone is too intoxicated. Decaprio and Vahyrin then are walking down the hall to his room and are approaching a Sabastien Vandenheste. Vandenheste says to the two, "hey do you want to see something." He is holding a door (later identified as Southgate 232). When they walk up he opens the door and shoves the two of them in. While in the room they see Leachman and Jones playing video games, Mr. Self and the unknown female are naked and on the bed having sex. The female is described as white female, skinny, blonde about 18-19 years old. Decaprio stated that she was not passed out but awake had smiled at their entry. He heard one of the boys playing the video game get annoyed and said something like you two need to get out of here. But he was saying this to the two having sex. Mr. Self responds "I just got my nut." Implying he finished. Decaprio and Vandenheste were able to get the door open and left Southgate together. I attempted to ask Decaprio about her consent level or her intoxication level. He admitted that she was in bed and it happened fast and so he wasn't completely sure. He did say that she was awake and appeared to be enjoying it. When I asked him to describe what he saw that led him to that statement. He said that maybe that's what he heard Vandenheste say as they walked up to the door. Something about "She is enjoying it."